

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(101)

RA-LP-20-2022

IN LPA-441-2022

Date of Decision:-11.11.2022.

M/s Indian Oil Corporation Ltd.

.....Appellant

Versus

M/s Punjab Motors Stores and another

.....Respondents

**CORAM:HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Sunil Chadha, Senior Advocate with
 Ms. Taanvi Dhull, Advocate
 for the applicant-respondent No.1.

Mr. N.K. Vashisht, Advocate
for respondent No.2-UOI.

ALOK JAIN, J.

Learned Senior counsel for applicant-respondent No.1 submits that the order dated 29.09.2022, whereby, the LPA filed by the appellant has been allowed, does not consider that Clause 5.1.2 of MDG-2012 which relates to short delivery had to be invoked and in the present case, the same pertained to alleged short delivery of 220 ml per 5 ltr. and that too only from one of the 08 nozzles with Weights and Measures Department seals intact. He further submits that the sales through the concerned dispensing unit was only to be suspended and the dispute was only with regard to one dispensing unit. Learned Senior counsel for the applicant-respondent No.1

RA-LP-20-2022 in
LPA-441-2022

-2-

has vehemently argued to reopen the entire issue, which has been duly considered.

In the present case, the fact of the matter is that the applicant-respondent No.1 had tampered with the holographic seals and, therefore, the order duly records that the replacement of the holographic seals only benefitted the applicant-respondent No.1, as the inspection of the pump and the nozzles had found a shortfall of the supply. More so, all these were disputed questions of fact and even the contentions raised in the present application are disputed questions of fact.

It is settled principle of law that the contours of reviewing an order are very limited and we find support from the judgment passed by the Hon'ble Supreme Court of India in **2022(4) R.C.R. (Civil) 36– S. Madhusudhan Reddy Vs. Narayana Reddy and others**, decided on 18.08.2022, which holds as under:

“19. After discussing a series of decisions on review jurisdiction in Kamlesh Verma v. Mayawati and Others²⁴, this Court observed that review proceedings have to be strictly confined to the scope and ambit of Order XLVII Rule 1, CPC. As long as the point sought to be raised in the review application has already been dealt with and answered, parties are not entitled to challenge the impugned judgment only because an alternative view is possible. The principles for exercising review jurisdiction were succinctly summarized in the captioned case as below:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;*
- (ii) Mistake or error apparent on the face of the record;*

(iii) *Any other sufficient reason.*

The words "any other sufficient reason" has been interpreted in Chajju Ram vs. Neki¹⁷, and approved by this Court in Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulouse Athanasius & Ors.¹⁸ to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd. & Ors. 25, 20.2. When the review will not be maintainable: -

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated."

In the light of the judgment of the Hon'ble Supreme Court of India in the case of ***S.Madhusudhan Reddy (supra)***, since the contours and

RA-LP-20-2022 in
LPA-441-2022

-4-

the scope of review are not met, therefore, the review application filed by the applicant-respondent No.1 cannot be considered.

More so, the application for review does not demonstrate any error apparent on the face of the record and the grounds raised do not entitle the applicant-respondent No.1 to seek a review.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ALOK JAIN)
JUDGE

November 11, 2022.

neenu

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No